

THE PREVENTION OF SEXUAL HARASSMENT IN STATE GOVERNMENT REFRESHER TRAINING

Video / Workbook

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DISCLAIMER

This video, and the accompanying workbook, are for use as Sexual Harassment Prevention refresher training only. They are not intended to replace the formal Sexual Harassment Prevention Training offered as part of New Employee Orientation by your Agency or DHRM.

Several workplace situations, based on events which have been investigated as Sexual Harassment, are presented in the video, some of which may contain graphic language and/or actions. They are included to: show examples of behavior and/or language which are inappropriate in the workplace; help the viewer think about the appropriateness of their interactions with others; and help the viewer understand how to deal with and report sexual harassment in the workplace.

INSTRUCTIONS

The workbook you have been given contains written information, followed by short review pages for you to complete. It also contains supplemental reading materials and copies of documents referred to in the video. The workbook is yours to keep as a reference guide, so feel free to write notes in it.

This refresher course is a self guided learning program. You will need to carefully follow directions on the videotape, and in the workbook. In a few moments, you will be asked to stop the video and read the Introduction of the workbook. When you have finished reading the Introduction, the workbook will prompt you to restart the video. You will then see the first workplace situation. After viewing each workplace situation, you will be asked to stop the tape and fill in answers on the corresponding review page in the workbook.

When you have completed the review page, you will restart the video. Correct answers to the statements in the workbook will appear on the video. Double check your answers with each statement in the workbook. Correct any you have missed before proceeding to the next section. Follow this process until you have completed the video and workbook.

The final page of the workbook is a combined Mandatory Review and Certification of Completion. Once you have finished the training, you are to remove, complete, and hand in this page to your supervisor, or authorized agency representative.

Statements on the Mandatory Review are taken from the review pages you will be completing following the workplace situations on this video. This Mandatory Review page serves as your final exam. The Certification of Completion on the reverse side certifies you have completed the training.

Now stop the tape and read the introduction in your workbook.

INTRODUCTION

On July 2, 1964, the 88th Congress of the United States passed into law the Civil Rights Act. This Act provided for such actions as the constitutional right to vote, to confer jurisdiction upon the district courts of the United States to provide injunctive relief against discrimination in public accommodations, to authorize the Attorney General to institute suits to protect constitutional rights in public facilities and public education, to extend the Commission on Civil Rights, to prevent discrimination in federally assisted programs, and to establish a Commission on Equal Employment Opportunity. Each specific action was titled. The specific title we will discuss today, is Title VII.

Equal Employment Opportunity is Title VII of the Civil Rights Act and it addresses and prohibits **DISCRIMINATION IN THE WORKPLACE**. It specifically states,

“ . . it is illegal for employers, labor unions, etc. to discriminate on the terms, conditions, and privileges of employment on the basis of race, color, religion, national origin, sex .”

The Act was amended in 1972 to include Sexual Harassment as a violation of federal law. The Equal Employment Opportunity Commission, or EEOC, was created and given responsibility for the enforcement of sexual harassment guidelines.

In 1980 the Commission provided guidelines to define more precisely what constituted sexual harassment. They defined **SEXUAL HARASSMENT** as:

“...unwelcome sexual advances, requests for sexual favors, and other sexual or physical conduct of a sexual nature,” . . . when certain criteria were present.”

The criteria were defined as:

Criteria I

Submission to such conduct is made either directly or subtly a term or condition of employment.

Criteria II

Submission to or rejection of such conduct is used as the basis for employment decisions affecting an individual.

Criteria III

Such conduct unreasonably interferes with an individual's work performance or creates an intimidating, hostile, or offensive work environment."

Criteria I and II are examples of **QUID PRO QUO** (a Latin term which means this for that) or conditional sexual harassment. In this type of sexual harassment, employment benefits are granted or withheld in exchange for sexual favors.

Criteria III is an example of **HOSTILE WORK ENVIRONMENT** (speech or conduct that is severe or pervasive enough to create a hostile or abusive work environment based on; race; religion; sex; national origin; age; disability; or veteran status. Some jurisdictions also include: sexual orientation; political affiliation; citizenship status; marital status; or personal appearance) for the plaintiff and for a reasonable person.

The EEOC identified four levels of Hostile Work Environment.

Level 1 - **Sex Role Stereotyping** - Discrimination which is demeaning, ridiculing, derisive and involves unequal treatment of an individual because of that individual's sex.

Example: Assigning tasks based on the sex of the individual.

Level 2 - **Gender Abuse** - Discrimination which is visual or verbal.

Examples: Displaying demeaning posters, cartoons, nudity. Offensive sexual jokes about gender.

Level 3 - **Individual Targeted Abuse** - Visually or physically offensive sexual comments or jokes about someone.

Examples: Asking questions about a person's sexual behavior. Making comments about a person's body. Conversations filled with sexual innuendos, propositions, threats, sexual insults, or lewd remarks. Displaying sexually suggestive pictures, posters, cartoons, or objects displayed in a work area which are directed toward a specific individual.

Level 4 - **Criminal Touching** - Patting, touching, or pinching; intentional touching of buttocks, genitals, or breasts; or actions not involving physical touching, but which are offensive to the extent that they visually, emotionally, or auditorially shock the conscience of a reasonable person. These actions constitute forcible sexual abuse, which is a second degree felony under Utah law.

Examples: Cat calls. Pornographic materials. Actual touching with sexual intent.

The Civil Rights Act has been amended as late as 1991 to grant victims the right to a jury trial, and if successful, victims may be awarded compensatory and punitive damages.

The EEOC is the federal agency charged with enforcing Title VII. The Utah Anti-Discrimination and Labor Division (UALD) of the Utah Labor Commission is the State Agency charged with enforcing the Utah Discrimination Act in our State.

The Labor Commission has developed regulations which provide a definition of sexual harassment substantially identical to that established by the EEOC and accepted by the United States Supreme Court.

An Executive Order, issued in 1993 by Governor Michael O. Leavitt, states in part:

“ . . .prohibits sexual harassment, which is a form of sex discrimination, in any and every workplace in which state employees and employees of public and higher education are required to conduct business.”

The Executive order further directs the Department of Human Resource Management (DHRM) to:

“ . . .issue rules and policies to ensure continued implement option of this order for employees of state government to include a provision that sexual harassment awareness training and education be mandatory for all directors, managers and supervisors in state government; and vigorously pursue the implementation of appropriate rules and policies to include imposition of disciplinary actions; education authorities are enjoined to do the same for their organizations.”

“IT IS FURTHER ORDERED that the Director of the Department of Human Resource Management shall: provide state agencies with an appropriate education program for all employees; provide guidelines on agency policy statements and complaint procedures; and provide technical assistance to state and educational authorities when requested.”

A copy of the Executive Order may be found in the appendices.

DHRM issues annually rules and policies which include the following sections: Purpose, policy, reprisals, complaint procedure, investigative procedure, records, and training. A copy of the latest DHRM Rules may be found in the appendices.

All employees are required to participate in training on the prevention of sexual harassment within nine months of entering the state workforce. You should have already completed this initial training. This workbook is part of a refresher training course, which must be completed once every three years.

(Restart video)

INTRODUCTION REVIEW STATEMENTS

Statements	True	False
1. There are no laws, rules or regulations which define sexual harassment and provide guidelines of how complaints are to be handled.	_____	_____
2. There are only three levels of Hostile Work Environment defined by the EEOC and adopted by the State of Utah.	_____	_____
3. Sexual harassment is not a form of discrimination.	_____	_____

(Restart video)

ANSWERS FOR THE INTRODUCTION REVIEW STATEMENTS

1. This statement is FALSE. The Civil Rights Act of 1964 as amended, The Equal Opportunity Commission EEOC Guidelines, Governor Leavitt's Executive Order, Department of Human Resource Management Rules, and Agency Policies and Procedures, all address sexual harassment and provide guidance on how complaints are to be handled.
2. This statement is FALSE. There are FOUR levels of Hostile Work Environment. They are:
 - a. Sex Role Stereotyping
 - b. Gender Abuse
 - c. Individual Targeted Abuse
 - d. Criminal Touching
3. This statement is FALSE. The 1972 amendment to the Civil Rights Act, the 1980 guidelines issued by the EEOC, and the 1986 Supreme Court decision, all define sexual harassment as a form of discrimination.

WORKPLACE SITUATION #1**“YOU OWE ME”
REVIEW STATEMENTS**

Statements		True	False
1.	This workplace situation depicts “Quid Pro Quo” sexual harassment.	_____	_____
2.	A complaint of sexual harassment is likely to become part of employee personnel files.	_____	_____
3.	A complainant is not required to confront the alleged harasser and tell them to stop the behavior before filing a complaint.	_____	_____
4.	If a complaint were filed, the complainant would risk losing their job.	_____	_____

(Restart video)

**ANSWERS FOR WORKPLACE SITUATION #1
REVIEW STATEMENTS**

1. This statement is TRUE. The woman was told “you owe me”, implying employment benefits would be granted or withheld in exchange for sexual favors. Quid Pro Quo is one of the two types of sexual harassment, the other being Hostile Work Environment. Approximately 20% of sexual harassment complaints are Quid Pro Quo and 80% Hostile Work Environment.
2. This statement is FALSE. A separate protected record of all sexual harassment complaints shall be maintained and stored in the agency’s human resource office, Department of Human Resource Management office, or in the possession of an authorized official.

If corrective or disciplinary action results from a sexual harassment investigation, that information may be included in an individual’s personnel file.

Persons involved in a sexual harassment complaint and investigation are told to keep all discussions confidential. They are not to discuss any details of the complaint or investigation.

3. This statement is TRUE. A person being harassed is encouraged to provide a clear, emphatic objection to any unwelcome or unwanted sexual conduct or behavior. It may be difficult for an employee to state an objection. Therefore, the employee is **NOT** required to confront the alleged harasser before filing a complaint.

A complaint can be made verbally or in writing. Although a person making a verbal complaint may be asked to put the complaint in writing. Employees have the right and the responsibility to file a complaints when faced with sexually harassing behavior in the workplace.

4. This statement is FALSE. DHRM Rules prohibit reprisals or retaliation. Employees need to know they have protection against reprisals for exercising their right to complain or for testifying or assisting in an investigation or hearing. This rule protects one against reprisal, but does not protect one from legitimate administrative actions to correct employee conduct such as: substandard performance, insubordination, or refusal to take reasonable supervisory direction. Any State employee is strongly warned against taking reprisal actions.

WORKPLACE SITUATION #2

**“RELAX”
REVIEW STATEMENTS**

Statements	True	False
1. The employee receiving a massage was offended and should file a complaint.	_____	_____
2. Other people observing this type of behavior could be offended and file a complaint.	_____	_____
3. A sexual harassment complaint cannot be filed against an alleged harasser of the same gender.	_____	_____

(Restart video)

**ANSWERS FOR WORKPLACE SITUATION #2
REVIEW STATEMENTS**

1. This statement can be either TRUE or FALSE. Remember it is the recipient who decides if another's behavior is offensive, not the person doing the behavior. It is the impact of the behavior, not the intent of the person who did the behavior, which determines if sexual harassment has occurred.
2. This statement is TRUE. Unwelcome sexual behavior which is not directed at an individual personally, but is part of their work environment, could be third-party sexual harassment. Individuals who see this type of behavior and find it offensive, shocking, or sexual by nature, could choose to file a third-party complaint of hostile work environment.
3. This statement is FALSE. Sexually harassing behavior can be directed to a person of the opposite sex or of the same sex. Statistics would show that the highest percentage of sexual harassment complaints are brought by women against men.

WORKPLACE SITUATION #3**“IF YOU CAN’T TAKE THE HEAT”
REVIEW STATEMENTS**

Statements	True	False
1. Asking a person to do something based on their gender meets the EEOC’s definition of Sex Role Stereotyping.	_____	_____
2. The workplace situation depicted would not be considered Criminal Touching.	_____	_____
3. Complaints of criminal touching are investigated differently than other sexual harassment complaints.	_____	_____

(Restart video)

**ANSWERS FOR WORKPLACE SITUATION #3
REVIEW STATEMENTS**

-
1. This statement is TRUE. Asking the woman firefighter to “get me a coke,” was an example of Sex Role Stereotyping. The female firefighters were treated differently based on their gender. The behavior was also demeaning and ridiculing.
 2. This statement is FALSE. Acts of criminal touching were demonstrated in this situation, when the male firefighter used his hands and body to detain the female firefighter.
 3. This statement is TRUE. A complaint of criminal touching may be reviewed by a supervisor or a department manager, but should be elevated to a “Formal Review” by a trained investigative team and may be referred to law enforcement. The alleged harasser may also face individual personal liability.

WORKPLACE SITUATION #4**“STAIRS ARE FOR WALKING ON, NOT PEOPLE”
REVIEW STATEMENTS**

Statements	True	False
1. It is improper for a supervisor to say, “just ignore the behavior” when a sexual harassment incident is reported.	_____	_____
2. In this workplace situation, the woman on the stairs does not need to come to work until she can be assured her coworker’s actions will not occur again.	_____	_____

(Restart video)

**ANSWERS FOR WORKPLACE SITUATION #4
REVIEW STATEMENTS**

1. This statement is TRUE. It is the responsibility of a supervisor, whether the supervisor of the alleged harasser or not, to ensure a workplace free from sexual harassment. Supervisors have a higher liability and responsibility for the prevention of sexual harassment in the workplace. DHRM Rules state that supervisors who knew or should have known that offensive sex-based behavior was occurring on duty, or have been made aware of the behavior occurring off duty which resulted in a hostile work environment, and did not take timely action to correct the situation shall be subject to disciplinary action. Supervisors are required to attend Sexual Harassment Prevention Training for supervisors.
2. This statement is FALSE. Individuals who feel they have been sexually harassed should continue to report to work so their work performance does not become an issue. In addition, they should verbalize disapproval of the behavior and demand that it stop or file a complaint if they are not comfortable verbalizing disapproval.

WORKPLACE SITUATION #5**“INTERNET”
REVIEW STATEMENTS**

Statements		True	False
1.	This workplace situation is an example of Quid Pro Quo Sexual Harassment.	_____	_____
2.	An employee observing this situation is not required to state their objection before filing a complaint.	_____	_____
3.	Accessing pornographic material on a state-owned computer system at any time is a violation of State policy.	_____	_____

(Restart video)

**ANSWERS FOR WORKPLACE SITUATION #5
REVIEW STATEMENTS**

1. This statement is FALSE. Exposing others to pornographic or sexually offensive material is an example of Hostile Work Environment. Any unwelcome sexual behavior which makes the workplace offensive, hostile, intimidating, or unreasonably interferes with an individual's work performance, could be considered Hostile Work Environment. Sexually harassing behaviors can be verbal, non-verbal, or visual.
2. This statement is TRUE. While it is appropriate to state your objection to the unwanted and unwelcome behavior, an employee is not required to do so before filing a complaint. If there is not equal initiation and participation when you interact with others, you may be doing unwelcome or unwanted behaviors, which could constitute sexual harassment.
3. This statement is TRUE. Accessing pornographic material is a violation of the State of Utah Information Technology Resources "Acceptable Use Policy." It is also an inappropriate behavior in the workplace even if there are no witnesses. This policy applies to employees who telecommute as well. A copy of this policy may be found in the appendices.

WORKPLACE SITUATION #6**“THE PROMOTION”
REVIEW STATEMENTS**

Statements	True	False
1. Employment decisions, including promotions, should not be based on gender.	_____	_____
2. Employees can only file a complaint with their agency human resource office regarding incidents of sexual harassment.	_____	_____
3. Employees are protected against retaliation if they bring up an issue of sexual harassment against a supervisor or co-worker.	_____	_____
4. Specially trained or qualified investigators conduct formal sexual harassment investigations.	_____	_____

(Restart video)

**ANSWERS FOR WORKPLACE SITUATION #6
REVIEW STATEMENTS**

1. This statement is TRUE. Discrimination based on gender is specifically prohibited by Title VII of the Civil Rights Act. Sexual harassment is also a violation of this law. The Governor's Executive Order and DHRM Rules clearly require a working environment free from sexual harassment.
 2. This statement is FALSE. Employees are encouraged to use internal agency or DHRM complaint procedures. However, a complaint may be filed (verbal or written) with any of the following:
 - supervisor or manager;
 - human resources office;
 - agency director;
 - Department of Human Resource Management (DHRM);
 - Utah Anti-Discrimination and Labor Division of the Utah Labor Commission (UALD); or
 - Equal Employment Opportunity Commission (EEOC).
 3. This statement is TRUE. DHRM rules prohibit reprisals or retaliation against any person filing a complaint, or against a witness or others involved in a sexual harassment investigation.
 4. This statement is TRUE. "Formal Investigation" by trained or qualified investigators should occur if any of the following conditions exist:
 1. Complaints are not resolved by the agency;
 2. Criminal Touching is alleged;
 3. Quid Pro Quo is alleged;
 4. Acts which shock the conscience are alleged;
 5. Witnesses must be interviewed;
 6. Inappropriate involvement with clients exists;
 7. An attorney, UALD or EEOC is involved;
 8. Similar actions have occurred before.
-

WORKPLACE SITUATION #7**“THE FLAGGER”
REVIEW STATEMENTS**

Statements	True	False
1. More than one type of sexually harassing behavior was demonstrated in this situation.	_____	_____
2. Sexually harassing behavior causing an employee to leave a workstation, impacting their ability to perform their work, is unacceptable behavior in the workplace.	_____	_____
3. Women should expect to be subjected to sexual harassment if they work in a predominately male environment.	_____	_____

(Restart video)

ANSWERS FOR WORKPLACE SITUATION #7
REVIEW STATEMENTS

-
1. This statement is TRUE. The female employee in this situation was subjected to Sex Role Stereotyping, Gender Abuse, and Individual Targeted Abuse.
 2. This statement is TRUE. When sexual harassing behavior unreasonably interferes with an individual's work performance, they have the right to complain. If you are receiving unwanted sexual attention, be assertive and state your objection. If you are uncomfortable in confronting the harasser, report the behavior to a supervisor. Continue to report to work. Do not jeopardize your job by poor work performance as a result of the harassing behavior.
 3. This statement is FALSE. Employees have the right to be free from sexually harassing behavior in any work environment, regardless if it is predominately male or female.

WORKPLACE SITUATION #8**“WHO NEEDS HELP?”
REVIEW STATEMENTS**

Statements		True	False
1.	Asking an employee to help you move equipment or materials in the office is sexual harassment.	_____	_____
2.	This workplace situation is Quid Pro Quo Sexual Harassment.	_____	_____

(Restart video)

ANSWERS FOR WORKPLACE SITUATION #8
REVIEW STATEMENTS

1. This statement is FALSE. Simply asking an employee to assist you with a task, such as moving a heavy box, is not sexual harassment. However, stating that you are asking them because they are “buff” could be considered a sexually harassing behavior.
2. This statement can be either TRUE or FALSE. The impact of the request can be seen as a potential threat to employment, if an employee feels that someone has the power to coerce, or has the ability to reward or punish.

WORKPLACE SITUATION #9

**“DRESS THE PART”
REVIEW STATEMENTS**

Statements		True	False
1.	Complaints of sexual harassment can be filed by non-employees.	_____	_____
2.	The way an individual dresses may excuse another person's behavior toward them.	_____	_____

(Restart video)

ANSWERS FOR WORKPLACE SITUATION #9
REVIEW STATEMENTS

1. This statement is TRUE. Sexual harassment charges may be brought against employees by customers or clients. Employees should not behave inappropriately toward any individual.
2. This statement is FALSE. Dress cannot be used as an excuse, or the basis of a defense against a charge of sexual harassment. Employees should dress appropriately for the workplace.

SUMMARY

To summarize the points of this training - sexually harassing behavior can range from: making sexual comments, to pressuring a co-worker for a date, to an attempted, or actual sexual assault or rape.

It is often difficult to determine when behavior goes from friendly to sexually harassing. To determine if your behavior is unwelcome, remember: “unwelcome” is determined by the recipient of the behavior, not the person doing the behavior.

- ? Make sure there is equal initiation and participation when you interact with others;
- ? Treat people as they would like to be treated not as you think they would like to be treated.

Many times people who are sexually harassed won't talk about it, because they are afraid of being ridiculed. They have been taught this is not really serious, they should be good sports about it, or they should even enjoy or be flattered by it.

Often, the person being harassed won't complain because they don't usually want the person doing the harassment to get into trouble, they just want the behavior to stop.

Employees having to deal with these unwanted attentions and behaviors may have diminished motivation, self-esteem and confidence. They may even quit their job, or develop physical or emotional illnesses. To prevent this from occurring, employees must understand they have the right to tell the person such behavior is unwelcome. They can file a complaint, without feeling afraid or guilty.

Federal laws, specific agency policies, DHRM rules, and established practices support a person's right to be free from sexual harassment.

CONCLUSION

Now that you have completed the training, please turn to the last page of the workbook. This page is the Mandatory Review, and on the reverse side, the Training Completion Form. Please remove this page from your workbook. The workbook is your's to keep as a reference. You will be handing in the last page after you fill it in.

Now answer all statements on the Mandatory Review. You should refer back to your workbook, as needed, to make sure your answers on the Mandatory Review are correct, as it serves as your final exam.

After you have completed the Mandatory Review, turn to the reverse side and fill out the Training Completion Form. Sign it and fill in today's date.

Give the signed and completed Mandatory Review and Training Completion Form to your supervisor, or agency representative, who will place the form in your personnel file to certify you have completed the training.

Thanks for your efforts in completing this Sexual Harassment Presentation.

Appendix A

**LANGUAGE FROM THE
GOVERNOR'S EXECUTIVE ORDER**

WHEREAS, sexual harassment has been defined to be unwanted behavior or communication of a sexual nature which adversely affects a person's employment relationships and/or creates a hostile working environment; and

WHEREAS, sexual harassment is unwelcome sexual statements, gestures, or physical contacts which are objectionable to the recipient; and

WHEREAS, sexual harassment may involve intimidation by persons of either sex against persons of the opposite or same sex; and

WHEREAS, the occurrence of sexual harassment undermines the integrity of the workplace, destroys morale and offends social and legal standards of acceptable behavior; and

WHEREAS, this administration is committed to providing a workplace which is free from sexual harassment, intimidation and reprisal of any kind;

NOW THEREFORE, I, Michael O. Leavitt, Governor of the State of Utah, by the authority vested in me by the Constitution and laws of this state, do hereby prohibit sexual harassment, which is a form of sex discrimination, in any and every workplace in which state employees and employees of public and higher education are required to conduct business.

IT IS ORDERED that the Department of Human Resource Management issue rules and policies to ensure continued implement option of this order for employees of state government to include a provision that sexual harassment awareness training and education be mandatory for all directors, managers and supervisors in state government; and vigorously pursue the implementation of appropriate rules and policies to include imposition of disciplinary actions; education authorities are enjoined to do the same for their organizations.

IT IS FURTHER ORDERED that the Director of the Department of Human Resource Management shall: provide state agencies with an appropriate education program for all employees; provide guidelines on agency policy statements and complaint procedures; and provide technical assistance to state and educational authorities when requested.

IT IS FURTHER ORDERED that the director of each state department or agency, board of education or institution of higher education shall: inform all employees of this order forbidding sexual harassment in their respective departments; inform employees of their rights; assure access to a complaint system for individuals within their departments consistent with rules issued by the Department of Human Resource Management and the Equal Employment Opportunity Commission guidelines; educate and provide structured training for all managers in their responsibility for identifying sexual harassment and appropriately dealing with complaints and solving related problems; and provide awareness programs for employees.

DHRM RULES

R477-15. Sexual Harassment Policy and Procedure.

15-1. Purpose.

The purpose of the State Department of Human Resource Management's (DHRM) policy on Sexual Harassment is designed to assure a working environment which is free from sexual harassment, which is a form of sex discrimination, and is in compliance with legal mandates of state and federal law.

15-2. Policy.

It is the policy of DHRM that:

- (1) discrimination based on sexual harassment, subtle or otherwise, shall not be tolerated; violators shall be subject to disciplinary action including termination or referral for criminal prosecution;
- (2) any behavior or conduct of a sexual nature which is unwelcome and pervasive, demeaning, ridiculing, derisive, or coercive and results in a hostile, abusive or intimidating work environment constitutes sexual harassment and shall not be tolerated; violators shall be subject to disciplinary action including termination;
- (3) any quid pro quo behavior which offers job advancement, enhancement or other tangible job benefits in return for sexual favors constitutes sexual harassment and shall be prohibited and subject to discipline and termination;
- (4) consideration shall be given to the complainant's requests in the investigation and through either a preliminary review process or a formal investigation as the circumstances indicate. However, the agency head or Executive Director, DHRM, may take appropriate action under this policy where the agency or state's legal liability is at risk;
- (5) sexual harassment complaints may be filed regardless of whether or not the behavior occurred on or off duty if it resulted in a hostile work environment;
- (6) supervisors who knew or should have known that offensive sex based behavior was occurring on duty, or have been made aware of the behavior occurring off duty which resulted in a hostile work environment and did not take timely action to correct the situation shall be subject to disciplinary action;

- (7) malicious or frivolous complaints of sexual harassment shall result in corrective or disciplinary action taken against the accuser;
- (8) individuals affected by alleged sexual harassment may, but shall not be required to, confront the accused harasser before filing a complaint;
- (9) the accused shall not contact the complainant regarding allegations of harassment once a complaint has been filed. However, contact could be made in a formal appeal situation.

15-3. Reprisals.

- (1) Reprisals are prohibited against any person who opposes a practice forbidden under this policy, or has filed a charge, testified, assisted or participated in any manner in an investigation, proceeding or hearing under this policy.
- (2) Any act of reprisal toward the complainant, witnesses or others involved in the investigation shall be subject to disciplinary action. Prohibited reprisal actions shall include but not be limited to:
 - (a) open hostility to complainant, participant or others involved;
 - (b) exclusion/ostracism of the complainant, participant or others;
 - (c) creation of or the continued existence of a hostile work environment;
 - (d) gender based negative remarks about the complainant, participant or others;
 - (e) special attention to or assignment of the complainant, participant or others to demeaning duties not otherwise performed;
 - (f) tokenism or patronizing behavior;
 - (g) discriminatory treatment;
 - (h) subtle harassment; or
 - (i) unreasonable supervisory imposed time restrictions on employees in preparing complaints or compiling evidence of sexual harassment activities or behaviors.

15-4. Complaint Procedure.

Individuals affected by sexual harassment are afforded avenues for filing complaints which are free from bias, collusion, intimidation or reprisal.

(1) Individuals who feel they are being subjected to sexual harassment should do the following:

- (a) continue to report to work,
- (b) verbalize disapproval of the action to the perpetrator and demand that it cease,
- (c) document the occurrence,
- (d) identify a witness.

(2) Employees are encouraged to use internal agency or DHRM complaint procedures. A complaint of sexual harassment may be submitted in accordance with an agency's approved complaint procedure, directly to DHRM or the Anti-Discrimination and Labor Division (UALD).

- (a) Complaints may be submitted by any individual, witness, volunteer or other employee.
- (b) Complaints may be made through either verbal or written notification and shall be handled in compliance with confidentiality guidelines.⁹⁷⁹⁷
- (c) Any supervisor who has knowledge of offensive harassment behavior of a sexual nature shall take immediate, appropriate action and document the actions.

(3) Any complaint of sexual harassment must be acted upon following receipt of the complaint.

(4) If an immediate investigation by the agency is not warranted, a meeting shall be held with the complainant, the supervisor or manager of the appropriate division, and others as appropriate to communicate the findings and management's resolution of the complaint.

15-5. Investigative Procedure.

The investigative procedures established by agencies shall allow the complainant to request to

file their complaint with an investigator of a specific gender and as required in R477-15-4(1) and (2). Preliminary reviews and investigations must be conducted in accordance with procedures issued by the Department of Human Resource Management.

(1) Results of Investigation

(a) If the investigation reveals that disciplinary action is warranted, the agency head shall take appropriate action as provided in R477-11.

(b) If an investigation reveals evidence of criminal conduct in sexual harassment allegations, the Executive Director of the agency or DHRM, may refer the matter to the Attorney General's Office or County Attorney as appropriate.

(c) If the investigation reveals the accusations are unfounded, this information shall be documented, the investigation terminated, and all parties involved notified. If the investigation results in findings of a malicious, frivolous, bad faith or false claim, the individual filing the claim shall be subject to corrective or disciplinary action.

(d) Investigations shall be conducted by qualified individuals selected from a DHRM-approved list.

15-6. Records.

(1) A separate protected record of all sexual harassment complaints shall be maintained and stored in the agency's human resource office, DHRM office or in the possession of an authorized official. Removal or disposal of records in the protected file may only be done with the approval of the agency head or Executive Director, DHRM, and only after minimum timelines specified herein have been met. Records shall be kept for: a minimum of three years from the resolution of the complaint or investigative proceeding.

(2) Separate files related to sexual harassment complaints shall not be kept by supervisors.

(3) All information contained in the complaint file shall be classified as protected pursuant to requirements of law, Government Records Access and Management Act, Section 63-2-304.

(4) Information contained in the sexual harassment protected file shall only be released by the agency head or Executive Director, DHRM, when in compliance with the requirements of law.

(5) Participants in any sexual harassment proceeding shall treat all information as protected.

(6) Final disposition of sexual harassment cases shall be communicated to appropriate parties.

15-7. Training.

(1) Departments shall comply with the Sexual Harassment Prevention Training Standards set by DHRM. As a minimum, these shall contain:

- (a) Course curriculum standards.
- (b) Training presentation requirements.
- (c) Trainer qualifications.
- (d) Training records management criteria.

KEY: administrative procedures, hostile work environment*

June 28, 1997 67-19-6

Notice of Continuation July 1, 1997

Appendix C

STATE OF UTAH
INFORMATION TECHNOLOGY RESOURCES
ACCEPTABLE USE POLICY

I. Purpose of State-Provided Information Technology Resources

The purpose of state-provided information technology (IT) resources (e.g., Email, electronic voice and video communication, facsimile, the Internet, and future technologies) is to support state agencies in achieving their mission and goals, and to improve state government in general. These resources are intended to assist in the efficient and effective day to day operations of state agencies, including collaboration and exchange of information within and between state agencies, other branches of government and others. These resources also provide public access to public information.

Effective use of state-provided IT resources are important to the State of Utah. To help improve the effectiveness of your use of these resources, incidental and occasional personal use is permitted,⁽¹⁾ as long as such use does not:

- ? interfere with existing rules or policies pertaining to the agency,
- ? disrupt or distract the conduct of state business (e.g., due to volume or frequency),
- ? involve solicitation,
- ? involve a for-profit personal business activity,
- ? have the potential to harm the state, or
- ? involve illegal activities.

Note: Any resources used for personal use that incurs a cost must be reimbursed to the state.

II. Purpose of this Policy

The intent of this policy is to assure that:

1. The use of state-provided IT resources are related to, or for the benefit of, state government.
2. State-provided IT resources are used productively.

PREVENTION OF SEXUAL HARASSMENT



3. Disruptions to state government activities, because of inappropriate use of state-provided IT resources, are avoided.

4. The state government community is informed about confidentiality, privacy, and acceptable use of state-provided IT resources as defined in this policy.

This policy is not meant to be a straightjacket on the use of these resources. Rather, the intent is to create an environment where communication can flow freely and with a minimum of policing. This policy should not discourage the state agency from using state-provided IT resources.

Refer to the following appendices for detailed information:

Appendix A - Responsibilities

Appendix B - Unacceptable Use of IT Resources

Appendix C - Overview of Technologies

III. Statutory Authority

State agencies shall comply with the policies and standards established by the Chief Information Officer (CIO). The CIO has the authority under Utah Code (§§ 63A-6-301), to set policy for all state agencies except: legislative and judicial branches, State Board of Education, Board of Regents, and institutions of higher education. Any state agency may develop additional policies which may enhance this policy. The CIO has no authority over federal or local governmental entities, businesses, or individuals, except to the extent that they must agree to abide by this policy when using state-provided resources.

IV. Privacy Issues and Legal Implications

A state agency has the right to access and disclose the contents of electronic files, as required for legal, audit, or legitimate state operational or management purposes (Administrative Rule R365-4, Information Technology Security). Do not transmit personal information about yourself or someone else using State-supplied IT resources without proper authorization. The confidentiality of such material cannot be guaranteed. Email and other electronic files may be accessible through the discovery process in the event of litigation. Each of these technologies may create a "record" and therefore are reproducible and subject to judicial use.

V. Retention/Disposition of Electronic Records

Just as with any other government record, electronic records are retained or disposed of in accordance with Government Records Access and Management Act (GRAMA). Refer to GRAMA or seek counsel from the state agency's records manager for guidance in this area.

VI. Warnings/Corrective Actions

Each state agency shall review complaints or instances of unacceptable use brought to its attention. Violators are subject to corrective action and discipline (Administrative Rule R477-9-1, Department of Human Resource Management, Standards of Conduct), and may also be prosecuted under state and federal statutes.

Appendix A - Responsibilities

1. Access only files, data and protected accounts that are your own, that are publicly available, or to which you have been given authorized access.

2. Use IT resources efficiently and productively. Refrain from monopolizing systems, overloading networks with excessive data, or wasting computer time, connect time, disk space, printer paper, or other IT resources.

3. Be responsible for the use of your accounts. Under no condition should you give your passwords to another person. Guard yourself against unauthorized access to your accounts:

? Change your passwords with regular frequency or in accordance with the state agency's policy regarding the frequency of changing passwords.

? Do not use obvious passwords.

? When you are away from your desk, take precautions to protect your accounts.

4. Report to the agency's appropriate authority if you:

? receive or obtain information to which you are not entitled

(Note: Also notify the owner or sender of such information),

? become aware of breaches of security, or

? know of any inappropriate use of state-provided IT resources.

5. Seek the advice of the authorized person responsible for any state-provided IT resource if you are in doubt concerning your authorization to access that resource.

6. Adhere to copyright law regarding use of software, information, and attributions of authorship. Upon the request of the agency, delete (from any computer) and return all state-provided software used for off-site work.

7. Conduct yourself as a representative of both the state agency and state government as a whole. As a minimum, this means that you shall not use IT resources to:

? Distribute offensive or harassing statements, disparage others based on race, national origin, sex, sexual orientation, age, disability or political or religious beliefs.

? Distribute incendiary statements which might incite violence or describe or promote the use of weapons or devices associated with terrorist activities.

? Distribute or solicit sexually oriented messages or images.

Appendix B - Unacceptable Use of IT Resources

The first and foremost rule for using these technologies is:

Don't say, do, write, view, or acquire anything that you wouldn't be proud to have everyone in the world learn about if the electronic records are laid bare.

Any use of state-provided IT resources for inappropriate purposes, or in support of such activities, is prohibited (unless authorized through job responsibilities). The following list is currently considered unacceptable use of state-provided IT resources.

1. Illegal Use. Any use of state-provided IT resources for illegal purposes, or in support of such activities. Illegal activities shall be defined as any violation of local, state, or federal laws.

2. Commercial Use. Any use for commercial purposes, product advertisements or "for profit" personal activity.

3. Sexually Explicit. Any sexually explicit use, whether visual or textual. You shall not view, transmit, retrieve, save, or print any electronic files which may be deemed as sexually explicit.

4. Religious or Political Lobbying. Any use for religious or political lobbying, such as using Email to circulate solicitations or advertisements.

5. Copyright Infringement. Duplicating, transmitting, or using software not in compliance with software license agreements. Unauthorized use of copyrighted materials or another person's original writings.

6. Unnecessary Use of IT Resources. Wasting IT resources by intentionally:

? placing a program in an endless loop;

? printing unnecessary amounts of paper;

? disrupting the use or performance of state-provided IT resources or any other computer system or network (for example, unauthorized world wide web pages, recurrent mass communications); or

? storing any information or software on state-provided IT resources which are not authorized by the agency.

7. Security Violations.

? Accessing accounts within or outside the state's computers and communications facilities for which you are not authorized or do not have a business need.

- ? Copying, disclosing, transferring, examining, renaming or changing information or programs belonging to another user unless you are given express permission to do so by the user responsible for the information or programs.
- ? Violating the privacy of individual users by reading Email or private communications unless you are specifically authorized to maintain and support the system.
- ? Representing yourself as someone else, fictional or real.

8. Viruses. Knowingly or inadvertently spreading computer viruses. "Computer viruses" are programs that can destroy valuable programs and data. To reduce the risk of spreading computer viruses, do not import files from unknown or disreputable sources. If you obtain software or files from remote sources, follow proper procedures to check for viruses before use. You should adhere to any state agency-specific policy in this area.

9. Junk Mail. Distributing "junk" mail, such as chain letters, advertisements, or unauthorized solicitations.

10. Confidential Information. Transmitting classified information under the Government Records Access and Management Act without proper security.⁽²⁾

Appendix C - Overview of Technologies

The following are examples of technologies that this policy governs. As new technologies gain popularity and use, they too will be governed by this policy. This overview will increase understanding of the uniqueness of these technologies as they relate to creating electronic 'records'. Each of these technologies creates an electronic record. This is what separates these from other forms of communications such as a telephone conversation. An electronic record is reproducible and therefore deserves special recognition.

I. Email

Email is a major means of communication in state government, and it offers an efficient method of conducting state business. Email, as defined in this document, consists not only of the state-provided Email system, but also the act of sending and receiving Email through the Internet.

There are a number of characteristics that distinguish Email from other means of communication, such as paper records, telephones, and information stored on electronic media such as diskettes. Awareness of these characteristics should guide your use of Email.

1. Backups. As part of standard computing and telecommunications practices to prevent loss of data, Email systems and the systems involved in the transmission and storage of Email messages usually are "backed up" on a routine basis. This process results in copying data, such as the content of an Email message, onto storage media that may be retained for periods of time and in locations unknown to the sender or recipient of a message. The frequency and retention of backup copies vary from organization to organization. While it may be difficult and time consuming, it should be assumed backup copies of Email messages exist and can be retrieved, even though the sender or recipient has discarded his/her copy of a message.

2. Special Status. While password protecting your Email account is beyond usual measures taken to protect access to paper records and telephones, it does not confer a special status on Email records with respect to applicability of laws, policies, and practices.
3. Monitoring. In the course of their work, managers, network and computer operations personnel or system administrators may monitor the network or Email system (Administrative Rule R365-4, Information Technology Security). It should be assumed that the content of Email messages may be seen by these authorized individuals during the performance of their duties.
4. Forgeries. No system of communication is completely secure, including Email. Just as with paper communications, an Email message can be forged, and it can be distributed beyond the address list originally defined by its author.
5. Viruses. Executable files (e.g., *.exe, *.com) can be transmitted via Email. You must always check executable files attached to Email messages for viruses before they are executed on state-provided IT resources.
6. Legal Implications. Email and other electronic files may be accessible through the discovery process in the event of litigation.

II. Facsimile (Fax)

Fax machines, in the past, simply created a paper copy of the original message. With today's technology, this is becoming less and less true; an electronic copy may be created. The same rules governing acceptable use of other state-provided IT resources also apply to the use of fax technology. The faxed message may be "backed up" onto other storage media. As with other technologies, the content of faxed messages may be seen by authorized individuals during the performance of their duties.

Use of fax technology does not always require a password for access. Recipients should not assume that the sender is always as reported. A fax should always be perceived as a non-private communication method. Remember, anyone at the other end may read your fax.

III. Internet

The Internet provides the ability to communicate, collaborate with others and access information throughout the world. However, there is little in the way of hierarchy or control of the information available. Increased access to computers and people all over the world also brings the availability of controversial material that may not be considered of value to an individual or the state.

Even if you are able to encrypt your data, anything you transmit over the Internet is subject to interception, reading, and copying by other people. This includes Email, personal information and passwords that are transmitted when you log into an account or log into another computer.

IV. Voice Mail

Voice mail is a means of communication that is in and of itself unique. It is similar to a telephone conversation, but it creates a "record". This should always be remembered by anyone using this technology. By the very definition of a record, the sender must remember that the message can also be saved, replayed, and shared with others that the sender did not intend. It also can be used in litigation. The same rules of password protection and confidentiality that concern other technologies also apply here.

V. Emerging Technologies

This policy does not address the specific details of technologies that are yet to be invented or implemented within state government. This policy should be sufficient to allow you to determine the acceptable use of any new or emerging technology. If you have any questions regarding appropriate use of a particular technology not specifically covered in this policy, please contact the appropriate individual in the state agency.

1. Your judgment regarding incidental and occasional personal use is important. While this policy does not attempt to articulate all required or proscribed behavior, it does seek to assist in such judgment by providing the above guideline. If you are unclear about the acceptable "personal" use of a state-provided resource or wish to use the resource for what may be considered as a good cause, seek authorization from the state agency's appropriate authority.

2. *Use caution when sending classified information. Always display "CONFIDENTIAL" on the screen when sending classified information. Confirm that encryption has been enabled. Inform the recipient of the information's classification, their responsibility to keep it private, and their responsibility to dispose of it in a secure manner at the end of its retention period.*

MANDATORY REVIEW

Statements	True	False
1. A complainant is not required to confront the alleged harasser and tell them to stop the behavior before filing a complaint.	_____	_____
2. A sexual harassment complaint cannot be filed against an alleged harasser of the same gender.	_____	_____
3. Asking a person to do something based on their gender meets the EEOC's definition of Sex Role Stereotyping.	_____	_____
4. It is improper for a supervisor to say, "just ignore the behavior" when a sexual harassment incident is reported.	_____	_____
5. Accessing pornographic material on a state-owned computer system at any time is a violation of State policy.	_____	_____
6. Employees can only file a complaint with their agency human resource office regarding incidents of sexual harassment.	_____	_____
7. Women should expect to be subjected to sexual harassment if they work in a predominately male environment.	_____	_____
8. Complaints of sexual harassment can be filed by non-employees.	_____	_____

NOTE:

100% accuracy is required on the Mandatory Review.

**PREVENTION OF SEXUAL HARASSMENT
REFRESHER TRAINING COMPLETION FORM**

Instructions: Complete the items on this page. Tear the page from the book along the vertical line. Give the page to your supervisor or agency representative. Be sure to sign your name.

I have completed the refresher training titled, “The Prevention of Sexual Harassment,” and I understand the concepts.

Name (Print)

Agency

Division/Bureau

Signature

Signature of Supervisor

Date

I understand this will be placed in my personnel file.